

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on January 30, 2001 at 8:00 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Alvin Ellis Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: House Bill 36, 2/6/2001;
Senate Bill 258, 2/6/2001
Executive Action: House Bill 36 Pass 9-0
Senate Bill 224 Table 5-4

HEARING ON HOUSE BILL 36

Sponsor: REPRESENTATIVE DAVE GALLIK, HD 52, Helena

Proponents: Greg Thornquist, Chairman of the State Tax Appeal Board; Randy Wilke, Department of Revenue

Opponents: None

Opening Statement by Sponsor: REP. DAVE GALLIK presented HB 36. He described the legislation as brought forth by the State Tax Appeal Board regarding state leased land where the lessee disagrees with the appraisal for tax purposes. Current state laws says they bring that appeal to the State Tax Appeal Board. Everyone else takes their initial appeal of their appraisal to the local tax appeal board. They take it first to the local and then if disputed then the State Tax Appeal Board. This bill would provide uniformity.

Proponents' Testimony: Greg Thornquist, Chairman of the State Tax Appeal Board, spoke in support of the bill. He informed the committee that the Department of Revenue appraises these properties as they do other fee owned property, lake property or other property throughout the state. Those appeals begin before the County Tax Appeal Boards. This bill would simplify the process and allow those appeals to begin before the County Tax Appeal Board and they would have the opportunity, based on a decision by that board, to bring that appeal to the state. He pointed out the County Tax Appeal Boards were more familiar with the local economies of the surrounding areas and can more effectively handle these appeals. It will be cost effective. The State Tax Appeal Board does travel to the jurisdiction where the property is located so if the matter can be resolved locally, it will be a savings on the state budget. There has been an increase in these types of appeals because there has been a talk of increase of these properties. ***{Tape : 1; Side : A; Approx. Time Counter : 0 - 4.7}***

Randy Wilke, Department of Revenue, supported the bill. He discussed the cabin site issue. A few years ago, the Legislature decided to make the Department of Revenue the body to determine the market value of each cabin site. In using that market value, the annual fees for use of those cabin site were determined. Currently, cabin site lessees have the right to appeal the Department evaluations as a direct appeal to the State Tax Appeal Board. This bill would now provide that appeal to the County Tax Appeal Board before any appeal to the state. That is the current method of appeal for any similar type of property. This will be less cumbersome and less costly for cabin site lessees if they wish to appeal their evaluation determination. ***{Tape : 1; Side : A; Approx. Time Counter : 4.7 - 5.8}***

Opponents' Testimony: None

Questions from Committee Members and Responses: SENATOR COLE asked if these were mostly cabin site appeals. **Mr. Thornquist**

replied that some could directly appeal to the state if that was appropriate. The benefit would be appeals at the county level.

Closing by Sponsor: REP. GALLIK closed on the bill.

HEARING ON SENATE BILL 258

Sponsor: SENATOR BOHLINGER, SD 7

Proponents: Rod Sundsted; Arlene Hannawalt, Guaranteed Student Loan Program

Opponents: None

Opening Statement by Sponsor: SENATOR BOHLINGER presented the bill. He said this would revise the education savings account laws. In the 1997 Session, he sponsored a bill that established the Family Education Savings Account. This provided an opportunity for people to make contributions up to \$3,000 as an incentive to set aside money for their family members education. He described education expenses and how they have escalated. Because of the projections for future costs, there is a need to make post secondary education an affordable experience for all Montanans. This is the reason for the Family Education Savings Account. This has been a very successful program as evidenced by those using the program. As of December, 31, 2000, there were 2,526 accounts opened with a cumulative deposit of \$17 million. Money is being set aside for family members continuing education. Since this saving program was established in 1997, the federal Congress had amended section 529 of the Internal Revenue Code, the enabling federal law that allowed states to set up these sorts of tax incentive programs. Because of these changes in federal law, it is necessary for our state to adopt some technical changes in the law to bring the state law into compliance with the federal law. **{Tape : 1; Side : A; Approx. Time Counter : 5.8 - 14.7}**

Proponents' Testimony: Rod Sundsted, Associate Commissioner for Fiscal Affairs for the Montana University System, spoke on the bill. He said the Board of Regents was the agency responsible for administering the Family Education Savings Account. The program has been very popular. This bill is very important in terms of technical corrections. Since the bill was originally passed, you can now use the funds from these accounts to pay for room and board. He distributed a summary of the bill.

EXHIBIT(tas24a01) He explained an amendment that addressed some corrections. **EXHIBIT(tas24a02)** Most of the financial aid available is in loans. The average loan amount is about \$17,000.

This bill would encourage people to save and hopefully reduce those loan amounts in the future. He pointed out the Governors Office had expressed some interest in increasing the amount of the contribution from \$3,000 up to \$4,500 or \$5,000. **{Tape : 1; Side : A; Approx. Time Counter : 14.7 - 18.8}**

Arlene Hannawalt, Director for the Montana Guaranteed Student Loan Program, supported SB 258. She said one of the most important parts of the bill was the ability for the families to include room and board. The agency has been expanding their outreach program in the Junior High level to try to get families to start saving for education early so that they aren't depending on loans when they do go on to college. People are borrowing more and more money and the result of that is they are not able to stay in Montana because they are not getting the salaries they need to pay them off. This represents a bad economic decision and there is a lot of concern about future ramifications. She pointed out their agency was doing an essay contest with Junior High students and low income, Title One schools, and offering the winner a \$250 college savings account out of this program. It is important for those students to be able to use that money for college and room and board.

Opponents' Testimony: None

Questions from Committee Members and Responses: **SENATOR ELLIS** asked **Mr. Sundsted** whether the room and board exceeded tuition. **Mr. Sundsted** replied that the room and board did exceed tuition.

SENATOR ELLINGSON asked about the parameters if they were taxed at the federal level. **SENATOR BOHLINGER** said the money was not taxed until it was withdrawn so there was no tax consequence either at the state or federal level. The federal government, through this section 529 of the Internal Revenue Code, provides this opportunity with tax benefits and allows states to piggy back with the enabling legislation. The earnings are not taxed until withdrawn and then it would be the student rate.

SENATOR STONINGTON asked how the withdrawals were captured for tax purposes. **Mr. Sundsted** pointed out the person who made the deduction may be in another state or be deceased by that time. Recapturing becomes a problem. This bill changes it so the account owner is liable for the tax if it was taken out for non education purposes, even if they didn't make the deduction. For example, if a person puts money in for their grandchildren and pass away, one of them decides to use it to buy a car and he is the account owner, he then would have to pay the tax at the highest marginal rate in Montana at the time he takes that money out. What this bill is trying to do is get away from having to

follow the individual who made the deduction for all of those years and instead go to the account owner.

SENATOR STONINGTON asked how an expenditure on something other than education could be known. **Mr. Sundsted** said the way it worked, was these accounts were not self directed. They can't be under federal law. They are contracted out to an institution to keep the account balances. At the time that money is drawn out, you have them furnish proof of what the expenditure is for. If there is no expenditure information to back up the withdrawal, it is then reported. **{Tape : 1; Side : A; Approx. Time Counter : 18.8 - 27}**

Closing by Sponsor: SENATOR BOHLINGER closed. He said one of the most important aspects of the bill would be the ability to apply the money for room and board since this was more costly than tuition. Because the average loan amount is \$17,000, this represents a huge debt obligation where students are forced to take jobs out of state to retire debt. He said he would like the committee to consider a couple of amendments at the time of executive action. One would increase the allowable amount of the deduction to raise it to \$4-5 thousand dollars. Another consideration would be to allow investments in mutual funds or equities. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 2}**

EXECUTIVE ACTION ON SENATE BILL 43

SENATOR ELLIS MOVED THE AMENDMENT. The question was called. The motion **PASSED** unanimously. **SENATOR ELLIS MOVED THE BILL AS AMENDED.**

SENATOR ELLINGSON said he needed a breakdown from the Department with projections, regarding stimulating investments by this investment tax credit as opposed to the base level we could expect without it. We want to stimulate investment without giving up so much tax revenue, which would be made regardless of whether the credit was there or not. **Judy Paynter** replied that the Department of Revenue did not have dynamic modeling. She noted that the fiscal note was prepared by using data from Idaho who had used the program. Montana does not have a base of information.

SENATOR GLASER pointed out the uncertainty of whether this would work and that it would take the fund balance down too far. **{Tape : 1; Side : B; Approx. Time Counter : 2 - 9.7}**

SENATOR STONINGTON said she had concerns that giving tax relief made for great rhetoric but this would take a broad and diverse tax base and make it narrower. This is to the detriment to the entire state's economy. We expect fewer people on fewer sources to pay a larger burden.

SENATOR BOHLINGER said this would be a bold move because the budget was short.

SENATOR HARRINGTON said the bill was a good idea but there were already too many tax credits and there is a need to be more selective.

SENATOR ELLIS pointed out a basic principal of taxation was equity. Spreading the burden is a difficult chore. Currently, business equipment has a higher effective tax rate than your home. If you look at businesses who have high equipment investments, they pay much higher wages compared to the average business. It is their workers who pay the income taxes in the state. It is their workers that can afford to pay the taxes that educate our children. He described opposition to other tax bills.

SENATOR COLE MOVED TO TABLE. The question was called. The motion **PASSED 8-1 with SENATOR EKEGREN VOTING NO.**

EXECUTIVE ACTION ON SENATE BILL 224

SENATOR BOHLINGER said he talked to a realty company in Seattle regarding the Realty Transfer Tax to see if it has harmed their business. He was still waiting for the information and wanted to delay executive action. He did receive information from **Linda Cockhill** regarding the effect on financing. **EXHIBIT (tas24a03)**

SENATOR ELLIS commented that the bill was not fair. Proponents had made a case that this would be a selective sales tax. This would not be good policy. He described an old house being sold that was poorly insulated that would be burdened with this tax.

CHAIRMAN DEPRATU felt that this would hurt young people that were moving up, most buying a home over \$100 thousand dollars. This hits lower and middle income families and he was not comfortable with this tax.

SENATOR BOHLINGER said he was in favor of the bill. SB 224 would provide a funding mechanism for things such as planning. **{Tape : 1; Side : B; Approx. Time Counter : 9.7 - 30}**

SENATOR STONINGTON said this was an opportunity to discuss tax philosophy. She said the tax base should be broadened. She pointed out we already had selective sales tax, one on gasoline, and a proposed local options tax. She felt this was appropriate since the tax would fund a stipulated use that is relevant.

SENATOR ELLIS said the bill had an extremely restricted focus. The bed tax was implemented strictly for promotion and every Session there has been a bill to garner that money for other purposes. This type of legislation is susceptible to the same attacks. He acknowledged the fuel tax was a selective sales tax, but it is used almost solely for the highways that cars have to travel.

SENATOR ELLIS MOVED TO TABLE the bill. *{Tape : 2; Side : A; Approx. Time Counter : 0 - 10}*

The question was called. The motion **PASSED 5-4**.

EXECUTIVE ACTION ON HOUSE BILL 36

SENATOR EKEGREN MOVED DO CONCUR. The question was called. The motion **PASSED UNANIMOUSLY**. **SENATOR ELLINGSON** will carry the bill.

ADJOURNMENT

Adjournment: 9:12 A.M.

SEN. BOB DEPRATU, Chairman

DEB THOMPSON, Secretary

BD/DT

EXHIBIT (tas24aad)